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7
8 IN THE UNITED STATES DISTRICT COURT
9
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

CASE NO. 1:24-CR-00069-NODJ-BAM

12 Plaintiff,

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER

13 v.

14 EDWIN ANGULO,

DATE: June 12, 2024

15 Defendant.

TIME: 1:00 p.m.

COURT: Hon. Barbara A. McAuliffe

16
17 BACKGROUND

18 This case is set for status conference on June 12, 2024. The Supreme Court has emphasized that
19 the Speedy Trial Act's end-of-justice provision "counteract[s] substantive openendedness with
20 procedural strictness," "demand[ing] on-the-record findings" in a particular case. *Zedner v. United*
21 *States*, 547 U.S. 489, 509 (2006). "[W]ithout on-the-record findings, there can be no exclusion under" §
22 3161(h)(7)(A). *Id.* at 507. Moreover, any such failure cannot be harmless. *Id.* at 509; *see also United*
23 *States v. Ramirez-Cortez*, 213 F.3d 1149, 1153 (9th Cir. 2000) (explaining that a judge ordering an ends-
24 of-justice continuance must set forth explicit findings on the record "either orally or in writing").

25 Ends-of-justice continuances are excludable only if "the judge granted such continuance on the
26 basis of his findings that the ends of justice served by taking such action outweigh the best interest of the
27 public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is
28 excludable unless "the court sets forth, in the record of the case, either orally or in writing, its reason or

1 finding that the ends of justice served by the granting of such continuance outweigh the best interests of
2 the public and the defendant in a speedy trial.” *Id.*

3 In light of the foregoing, this Court should consider the following case-specific facts in finding
4 excludable delay appropriate in this particular case under the ends-of-justice exception, § 3161(h)(7)
5 (Local Code T4). If continued, this Court should designate a new date for the status conference. *United*
6 *States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be
7 “specifically limited in time”).

8 **STIPULATION**

9 Plaintiff United States of America, by and through its counsel of record, and defendant, by and
10 through defendant’s counsel of record, hereby stipulate as follows:

11 1. By previous order, this matter was set for a status conference on June 12, 2024.

12 2. By this stipulation, the defendant moves to continue the status conference to August 28,
13 2024, and exclude time between June 12, 2024 and August 28, 2024, under 18 U.S.C. § 3161(h)(7)(A),
14 B(iv) [Local Code T4].

15 3. The parties agree and stipulate, and request that the Court find the following:

- 16 a) The government provided discovery to the defense on April 8, 2024. The discovery
17 consists of investigative reports, bodycam footage, photographs, and other information.
- 18 b) Counsel for the defendant desires additional time to consult with her client, review the
19 discovery, and conduct an independent investigation. Counsel for defendant believes that
20 failure to grant the above-requested continuance would deny him/her the reasonable time
21 necessary for effective preparation, taking into account the exercise of due diligence.
- 22 c) The parties have engaged in discussions about the potential of a plea and how the
23 guidelines will apply in this case. The Government has recently made a plea offer to the
24 Defense, which Defense counsel has not had the opportunity to review or discuss with
25 Mr. Angulo. After Defense counsel reviews the plea and discusses it with her client, she
26 will need additional time to engage in negotiations with the Government.
- 27 d) The government does not object to the continuance.
- 28 e) Based on the above-stated findings, the ends of justice served by continuing the case as

1 requested outweigh the interest of the public and the defendant in a trial within the
2 original date prescribed by the Speedy Trial Act.

- 3 f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq.,
4 within which trial must commence, the time period of April 24, 2024 until August 28,
5 2024, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv)
6 [Local Code T4] because it results from a continuance granted by the Court at
7 defendant's request on the basis of the Court's finding that the ends of justice served by
8 taking such action outweigh the best interest of the public and the defendant in a speedy
9 trial.

10 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
11 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
12 must commence.

13 IT IS SO STIPULATED.

14 Dated: June 7, 2024

PHILLIP A. TALBERT
United States Attorney

16 /s/ ARIN C. HEINZ
17 ARIN C. HEINZ
18 Assistant United States Attorney

19 Dated: June 7, 2024

20 /s/ KARA OTTERVANGER
21 KARA OTTERVANGER
Counsel for Defendant
Edwin Angulo

ORDER

IT IS SO ORDERED that the status conference is continued from June 12, 2024, to **August 28, 2024, at 1:00 p.m. in Courtroom 8 before Magistrate Judge Barbara A. McAuliffe**. Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

IT IS SO ORDERED.

Dated: June 7, 2024

/s/ Barbara A. McAuliffe

UNITED STATES MAGISTRATE JUDGE